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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/371,038	08/10/1999	LISA S. PURVIS	04529.81506	8784

7590 06/03/2004  
OLIFF & BERRIDGE, PLC  
P.O. BOX 19928  
ALEXANDRIA, VA 22320

EXAMINER

LAMB, TWYLER MARIE

ART UNIT	PAPER NUMBER
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2622

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/371,038

Applicant(s)

PURVIS ET AL.

Examiner

Twyler M. Lamb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6 and 11 is/are rejected.
- 7) ☒ Claim(s) 2-5, 7-10 and 12-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Notice to Applicant (s)**

1. This action is responsive to the following communications: Request for Reconsideration filed on 3/18/04.
2. This application has been reconsidered. Claims 1-15 are pending.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1, 6 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Neuhard et al. (Neuhard) (US 6,335,795).

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With regard to claims 1, 6 and 11, Neuhard discloses a scheduler (spooler/scheduler 20) for a machine (col 4, lines 29-36) comprising: a selector (GUI application 180) to select a traverser and to select policies from a library based on a model of the machine (col 12, lines 6-62); and the traverser that is selected by the selector to look for a preferred itinerary (col 12, lines 6-62).

***Allowable Subject Matter***

5. Claims 2-5, 7-10 and 12-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments filed 3/18/04 have been fully considered but they are not persuasive.

Applicant argues that Neuhard does not suggest a selector for selecting a traverser and the selector selecting policies from a library of applicable policies based on a model of the machine.

Neuhard discloses a scheduler (spooler/scheduler 20) for a machine (col 4, lines 29-36) comprising: a selector (GUI application 180) to select a traverser and to select policies from a library based on a model of the machine (col 12, lines 6-62); and the traverser that is selected by the selector to look for a preferred itinerary (col 12, lines 6-62).

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Twyler Lamb whose telephone number is 703 - 308-8823. The examiner can normally be reached on M-TH (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L Coles can be reached on 703-308-4712. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9314 for After Final communications.

Any response to this action should be mailed to:

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Commissioner of Patents and Trademarks

Washington, DC 20231

or faxed to:

(703) 872-9314

(for informal or draft communications, such as proposed amendments to be discussed at an interview; please label such communications "PROPOSED" or "DRAFT")

or hand-carried to:

Crystal Park Two

2121 Crystal Drive

Arlington, VA.

Sixth Floor (Receptionist)

Twyler Lamb



June 1, 2004